



U.S. Department of Justice

Executive Office for United States Trustees

INSTRUCTIONS FOR APPLICATION FOR APPROVAL AS A NONPROFIT BUDGET AND CREDIT COUNSELING AGENCY

Introduction. A nonprofit budget and credit counseling agency seeking approval by the United States Trustee, in accordance with 11 U.S.C. § 111, (hereinafter "Agency") shall submit an application to the Executive Office for United States Trustees (EOUST) in the form described below. The Agency shall provide all information and documents required by the EOUST or the United States Trustee responsible for each judicial district in which the Agency seeks approval. Unless otherwise stated, all information and documents shall be in writing. All documents provided shall be either original or "conformed copies."¹

Mailing Instructions, Information Requests, and Notifications. The application package should include the completed application and all documents and information requested. Once completed, the entire package should be sent by overnight mail to the following address:

Executive Office for U.S. Trustees
Credit Counseling Application Processing
20 Massachusetts Avenue, NW
8th Floor
Washington, DC 20530

(202) 514-4100

Supplemental information requests and notifications will be sent to the principal contact identified in the application. Responses to requests should be submitted to the address stated above unless otherwise instructed.

Applications should be completed in their entirety before submission. An incomplete application may result in delay or denial of the application. Upon receipt of the application, the Agency will receive, as soon thereafter as practical, an acknowledgment letter which may include a request for additional information. Written inquiries concerning the status of the application should be directed to the above address.

^{1/} "Conformed copy" as used herein means a copy that agrees with the original and all amendments to the original. If the original document required a signature, the copy should either be signed by a principal officer or, if not signed, be accompanied by a written declaration signed by an authorized officer of the organization. With either option, the officer must certify that the document is a complete and accurate copy of the original.

Application Form and Instructions. The application form and instructions consist of the following sections:

- Section 1. General Information Concerning the Organization
- Section 2. Status as a Nonprofit Organization
- Section 3. Quality, Experience, and Background in Providing Credit Counseling Services
- Section 4. Counseling Services and Reasonableness of Fees
- Section 5. Qualifications of Counselors
- Section 6. Administration of Debt Management Plans and the Safekeeping and Payment of Client Funds
- Section 7. Acknowledgments, Agreements, and Declarations
- Section 8. Certification and Signature
- Appendix A. Acknowledgments, Agreements, and Declarations in Support of Application for Approval as a Nonprofit Budget and Credit Counseling Agency
- Appendix B. Employee Qualifications Matrix

Burden Statement. Respondents are not required to complete this form unless it contains a valid OMB number. The public reporting burden for this application is estimated to average three hours, including time for reviewing instructions, gathering information, and completing the application. Comments regarding this burden estimate or any other aspect of this application, including suggestions for reducing the burden, should be directed to the Executive Office for United States Trustees, Credit Counseling Application Processing, 20 Massachusetts Avenue, NW, 8th floor, Washington, DC 20530.

Section 1. General Information Concerning the Organization

- 1. Complete Section 1 of the Application.

Section 2. Status as a Nonprofit Organization

- 1. Nonprofit. The Agency must be organized and operated as a nonprofit entity and have an independent board of directors, board of trustees, or other governing body, the majority of which – (i) are not employed by such Agency and (ii) will not directly or indirectly benefit financially from the outcome of the counseling services provided by such Agency. An Agency may not engage in any conduct or transactions that generate or create the appearance of generating a private benefit for any individual or group.
- 2. Complete Section 2 of the Application.

Section 3. Quality, Experience, and Background in Providing Credit Counseling Services

1. Generally. The Agency shall operate in a prudent business manner and shall deal responsibly and effectively with matters relating to the quality, effectiveness, and financial security of the services it provides.
2. Business Experience. The Agency must have adequate experience and background in credit counseling. To meet this requirement, the Agency must have provided credit counseling services for the last two years. Alternatively, if an Agency fails to meet the two-year requirement, the Agency must currently employ in each office location that serves clients at least one office supervisor with experience and background in providing credit counseling for no less than two of the last three years.
3. Compliance with Laws and Regulations. The Agency must be in compliance with all applicable laws and regulations of the United States and each state, commonwealth, district, or territory of the United States in which the Agency conducts credit counseling services. Nothing contained in these instructions, the application, or the appendix thereto is intended to preempt any applicable law or regulation governing the conduct or operations of an Agency.
4. Complete Section 3 of the Application.

Section 4. Counseling Services and Reasonableness of Fees

1. Adequate Credit Counseling Services. An Agency shall provide, at a minimum, adequate briefings, budget analysis, and credit counseling services to clients which include consideration of all alternatives to resolve a client's credit problems, an analysis of the client's current financial condition, discussion of the factors that caused such financial condition, and how the client can develop a plan to respond to the problems without incurring negative amortization of debt. The average length of an adequate briefing is 90 minutes.
2. Providers of Telephonic Services or Internet Services. In addition to meeting all other requirements, an Agency that provides telephonic services or Internet services must demonstrate sufficient experience and proficiency in designing and providing services over the telephone or Internet.
3. Reasonableness of Fees. Fees, contributions, or payments received from clients for counseling services shall be reasonable in amount, and the Agency will provide services without regard to a client's ability to pay and will not withhold a certificate of counseling because of an inability to pay.
4. Complete Section 4 of the Application.

Section 5. Qualifications of Counselors

1. Trained Counselors. The Agency must provide trained and experienced counselors.
2. Certification and Experience. A counselor shall be deemed to have adequate training and experience to provide credit counseling and budget analysis if the counselor is accredited or certified by a recognized independent organization, such as the National Foundation for Credit Counseling (“NFCC”) or the Association of Independent Consumer Credit Counseling Agencies (“AICCCA”), or has successfully completed a course of study acceptable to the United States Trustee and has worked a minimum of six months in a related area, including personal finance, budgeting, and debt management.
3. Complete Section 5 of the Application.

Section 6. Administration of Debt Management Plans and the Safekeeping and Payment of Client Funds (This section applies only to Agencies offering debt management plans.)

1. Financial Security. The Agency must have adequate financial resources to provide continuing support services for debt management plans over the life of any plan, and provide for the safekeeping of client funds.
2. Banking. The Agency shall deposit all client funds into a trust account insured by the Federal Deposit Insurance Corporation (FDIC) in the amount of \$100,000 with respect to each client.
3. Accounting. The Agency shall keep and maintain books, accounts, and records to provide a clear and readily understandable record of all business conducted by the Agency.
4. Bonding. Agencies that offer Debt Management Plans must provide the following:
 - A surety bond payable to the United States in an amount which is the greater of five (5) percent of the Agency’s prior year disbursements made from trust accounts based upon the information provided in the last annual audit or \$5,000; and
 - Proof of adequate employee bonding or fidelity insurance. The amount shall be the greater of five (5) percent of the applicant’s prior year disbursements made from trust accounts based upon the information provided in the last annual audit or \$5,000.
5. Complete Section 6 of the Application.

Section 7. Acknowledgments, Agreements, and Declarations

1. Agreement to Disclose Information to Clients. The Agency must provide full disclosure to a client, including funding sources, counselor qualifications, possible impact on credit reports, the cost of services to be paid by the client, and how the cost will be paid.
2. Acknowledgment of Prohibitions, Limitations, and Obligations Regarding Operations. By executing and submitting the Application for Approval as a Nonprofit Budget and Credit Counseling Agency, the Agency acknowledges the prohibitions, limitations, and obligations set forth in Appendix A, Acknowledgments, Agreements, and Declarations in Support of Application for Approval as a Nonprofit Budget and Credit Counseling Agency.
3. Complete Section 7 of the Application.

Section 8. Certification and Signature

The Agency's president, chairman, trustee, or other authorized official is required to declare, by signing the application, that such individual is authorized to complete the application on behalf of the Agency; that such individual has read and knows the contents of the application and all enclosures and attachments submitted; and that such individual affirms under penalty of perjury that all of the representations and statements contained therein are true and correct to the best of such individual's knowledge, information, and belief.